

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 31 MAR 2006

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Applicant's or agent's file reference 144.01PCT	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/36608	International filing date (day/month/year) 03 November 2004 (03.11.2004)	Priority date (day/month/year) 03 November 2003 (03.11.2003)	
International Patent Classification (IPC) or national classification and IPC IPC: B61C 11/00( 2006.01) USPC: 105/72.2;104/243			
Applicant MARK PUBLICOVER			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 23 May 2005 (23.05.2005)		Date of completion of this report 05 March 2006 (05.03.2006)	
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201		Authorized officer Mark T. Le  Telephone No. 571-272-3600	

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# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/36608

## Box No. I Basis of the report

1. With regard to the language, this report is based on:

- ☐ the international application in the language in which it was filed.
- ☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 \_\_\_\_\_ as originally filed/furnished
- pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- pages 10 and 11 \_\_\_\_\_ as originally filed/furnished
- pages\* NONE \_\_\_\_\_ as amended (together with any statement) under Article 19
- pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- pages 1-9 \_\_\_\_\_ as originally filed/furnished
- pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* NONE \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages none \_\_\_\_\_
- ☒ the claims, Nos. none \_\_\_\_\_
- ☒ the drawings, sheets/figs none \_\_\_\_\_
- ☒ the sequence listing (*specify*): none \_\_\_\_\_
- ☒ any table(s) related to the sequence listing (*specify*): none \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/US04/36608**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims <u>8</u>	YES
	Claims <u>1-7 and 9-12</u>	NO
Inventive Step (IS)	Claims <u>8</u>	YES
	Claims <u>1-7 and 9-12</u>	NO
Industrial Applicability (IA)	Claims <u>1-12</u>	YES
	Claims <u>NONE</u>	NO

**2. Citations and Explanations (Rule 70.7)**

**Claims 1-7 and 9-12 lack novelty under PCT Article 33(2) as being anticipated by Romine (US 5,289,778).**

Romine discloses a transporting vehicle system having all the features recited in the instant claims, including front and rear axles provided with railway and roadway wheels 56, 58, motor 32 for driving the wheels, and two supporting axles provided with wheels 184.

Regarding the instant method claims, note that the operation of the vehicle system of Romine inherently requires the method steps as recited in the instant method claims, and that the structure of Romine is inherently capable of performing the intended operations as recited in the instant method claims.

Regarding the instant claimed supporting axle being mounted to extend from the side of the vehicle body, note that the supporting axle having wheels 184 of Romine is extendable from the top side of the vehicle body to engage the second track, as broadly claimed.

Claim 8 meets the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the vehicle having the combination of features, as recited in the instant claim, including the supporting axle that is co-axial with the front or rear axle and extendable outwardly therefrom.

Claims 1-12 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----